

EXPLANATORY STATEMENT

TORRES STRAIT FISHERIES MANAGEMENT INSTRUMENT NO. 3

Issued by the authority of the Protected Zone Joint Authority

Torres Strait Fisheries Act 1984

The Torres Strait Fisheries Management Instrument No. 3 (FMI 3) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Subsection 16(1) of the *Torres Strait Fisheries Act 1984* (the Act) provides for the Minister for Agriculture, Fisheries and Forestry to regulate fishing through an instrument registered on the Federal Register of Legislative Instruments (FRLI). Subsection 35(1) of the Act provides for the Protected Zone Joint Authority (PZJA) to exercise the powers of the Minister under Subsection 16(1) of the Act.

The Torres Strait Prawn Fishery (TSPF) is one of the most valuable commercial fisheries in the Torres Strait. The fishery focuses primarily on brown tiger prawns (*Penaeus esculentus*), blue endeavour prawns (*Metapenaeus* spp) and red spot king prawns (*Melicertus longistylus*). Prawns are taken by trawling at night. Commercial fishing occurs from 1 March to 30 November, inclusive, with a peak during March-June.

The *Torres Strait Prawn Management Plan 2009* (the Plan) was approved by the PZJA and registered on 12 February 2009. The Plan provides for a unitised allocation system representing a share of the total available effort and replaces the current system of fishing days.

Fisheries Management Instruments are required to support the Plan. In general they deal with prohibitions and management arrangements that are expected to change more frequently than Management Plans. In addition they may be used to prescribe things that by virtue of the Act cannot be prescribed in a management plan.

Fisheries Management Instrument No. 3 – *Prohibition on Taking Prawns and Carrying Equipment (Seasonal Area Closures)* modifies and replaces the existing arrangements contained in Fisheries Management Notice Nos. 40. FMI 3 prohibits the taking or carrying of prawns during the closure period (commencing at 1500 hours local time on 1 March to 1500 hours local time on 31 July each year) within the closed areas, which are outlined in Schedule 1 by reference to the Australian Geodetic Datum 1966 (AGD66). For convenience, the coordinates of the closed areas have also been expressed in Schedule 2 of the Instrument based on the World Geodetic Datum 1984 (WGS84).

Consultation

The revised arrangements contained in FMI 3 were considered by the Torres Strait Prawn Fishery Management Advisory Committee (TSPMAC) at its December 2008 meeting. The TSPMAC is the principal advisory body for the PZJA on TSPF management issues. The TSPMAC includes members

representing industry, government and scientific interests. The TSPMAC recommended that the PZJA approve FMI 3.

The Office of Best Practice Regulation (OBPR) has advised that as the impacts of the amendments will be 'low', the preparation of a Regulatory Impact Statement or quantification of compliance costs is not required (OBPR ID number 10033).

Details of the Instrument

Clause 1 provides that the name of the instrument is the Torres Strait Fisheries Management Instrument No. 3.

Clause 2 provides that the instrument commences on the day after registration.

Clause 3 provides that the instrument applies in conjunction with any other notice or instruments in force in the TSPF.

Clause 4(1) defines how specific words and terms used in the Instrument are to be interpreted.

Clause 4(2) confirms that a word used in the instrument that is used in the Act, the *Torres Strait Fisheries Regulations* or the *Torres Strait Prawn Management Plan 2010* has the same meaning as in the Act, Regulations or the Plan.

Clause 5 provides a description of the closed areas east of Warrior Reef in Schedule 1 by reference to the Australian Geodetic Datum 1966 (AGD66) *Geoscience Australia*.

For convenience of the use of navigational aids Schedule 2 also provides a description of the closed areas east of Warrior Reef by reference to World Geodetic System 1984 (WGS84).

Any inconsistencies in coordinates between the AGD66 and the WGS84 description will be resolved by referencing Schedule 1.

The *Guidelines for Describing Maritime Boundaries 2006*, Geosciences Australia provides good reference material on how maritime boundaries are described and where possible, should be used in conjunction with FMI 3 and this explanatory statement.

Clause 6 details prohibitions on the taking of prawns in the closed area described in Schedules 1 and 2 during the closure period set out in clause 4.

All TSPF boats are prohibited from carrying fishing gear in the closed areas during a closure period unless all the fishing gear is out of the water. If the gear is in the water the operator must ensure all cod ends are open and drawn to the boat so that the cod ends are visible from an aircraft or another boat and the boards are at the blocks.

This ensures that compliance agencies are able to positively ensure that operators abide by the conditions that govern transit zones in the TSPF.

Schedule 1 - Defines the boundary of the closed areas by reference to WGD66.

Schedule 2 - Defines the boundary of the closed areas by reference to WGS84.